

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

3 In re:)
4 NATHAN BENJAMIN DAMIGO,) Case No. 19-90003-C-7
5 Debtor.)
6 _____)
7 ELIZABETH SINES, et al.,) Adversary No. 19-0900
8 Plaintiffs,)
9 v.)
10 NATHAN BENJAMIN DAMIGO,)
11 Defendant.)

Background

The debtor Nathan Benjamin Damigo in this chapter 7 bankruptcy case is the judgment debtor personally liable for a total amount of \$3,096,254.32 in a judgment rendered by the United States District Court for the Western District of Virginia in Elizabeth Sines et al. v. Jason Kessler, et al., Civil Action No. 3:17-cv-00072-NKM.

The plaintiff judgment creditors filed this bankruptcy adversary proceeding against Damigo alleging one count of exception to discharge (i.e., nondischargeability) under 11 U.S.C. § 523(a)(6).

Granting Plaintiffs' motion for summary judgment, Bankruptcy Judge Ronald Sargis entered judgment in favor of Plaintiffs on their § 523(a)(6) count in which it was determined that the "monetary obligations" in the judgment entered in the Western District of Virginia is attributable to "willful and malicious"

1 conduct. The theory was issue preclusion derived from the
2 District Court's judgment in the Western District of Virginia and
3 applied to the essential elements of § 523(a)(6).

4 Simultaneously, Judge Sargis granted summary judgment in
5 favor of defendant Damigo on an additional count § 727(b) added
6 by an Amended Complaint.

7 Damigo filed a Notice of Appeal, electing to have the appeal
8 heard by the Bankruptcy Appellate Panel. The Plaintiffs exercised
9 their option to require that the appeal be determined by the
10 District Court for the Eastern District of California, where the
11 appeal is now pending as No. 2:25-cv-03113-DC(BK).

12 The judgment by Judge Sargis was filed August 29, 2025. The
13 case No. 19-90003 and the adversary proceeding No. 19-9006 were
14 transferred to the undersigned judge on September 2, 2025, on
15 account of the retirement of Judge Sargis.

16 The Appellant's Statement of Issues on Appeal focus on the
17 bankruptcy court's application of issue preclusion to the various
18 components of the District Court Judgment in the Western District
19 of Virginia.

20 Damigo filed the instant motion for stay pending appeal. The
21 Plaintiffs oppose the motion.

22 Hearing was heard by the undersigned judge on October 29,
23 2025, at which the arguments of Damigo and the Plaintiffs were
24 entertained.

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26 Analysis

27 Federal Rule of Bankruptcy Procedure 8007(a)(1)(A)
28 prescribes the procedure applicable to a stay pending appeal in a

1 bankruptcy case and requires that a party move first in the
2 bankruptcy court. If the bankruptcy court declines to enter a
3 stay, then Rule 8007(b) applies to subsequent efforts of obtain a
4 stay. Rule 8007(c) addresses the need for a bond on appeal.

5 The judgment by Judge Sargis determining nondischargeability
6 under § 523(a)(6) merely declares the bankruptcy discharge status
7 of whatever monetary obligations have been determined by the
8 District Court in the Western District of Virginia against
9 defendant Damico. It is not itself a money judgment.

10 Since the automatic stay protecting Damigo expired pursuant
11 to 11 U.S.C. § 362(c)(2)(C) upon entry of his bankruptcy
12 discharge on April 16, 2019, the remaining bankruptcy impediment
13 to attempting to collect on a final Western District of Virginia
14 judgment has been fear of potentially violating the discharge
15 injunction of 11 U.S.C. § 524.

16 The consequence of the nondischargeability judgment is to
17 reduce, but not eliminate, that fear. That fear will not
18 dissipate entirely until the present appeal is exhausted.

19 The need for the requested stay is not immediately apparent.
20 In principle, without a stay, there is nothing to prevent
21 Plaintiffs from proceeding to judgment enforcement. If Damigo's
22 assertion about lack of assets is correct, then there is little
23 or nothing to collect.

24 Moreover, money judgment enforcement is under state law; all
25 states provide personal exemptions from judgment enforcement. The
26 levels of income being represented in the motion for stay,
27 suggest that little could actually be collected. At worst, Damigo
28 might have to suffer the indignity of a judgment debtor's

1 examination.

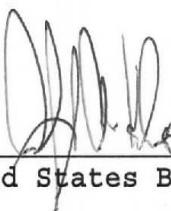
2 If any sums were to be collected from Damigo and then the
3 nondischargeability judgment were to be finally reversed, then
4 the collected sums would have to be refunded to Damigo.

5 In sum, the balance of relevant harms counsels against a
6 stay pending appeal.

7 If this court were to grant a stay pending appeal, it would
8 require a bond consistent with the usual approach of 150% of the
9 \$3,096,254.32 money judgment.

10 MOTION DENIED.

11 Dated: October 30, 2025

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United States Bankruptcy Judge

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2 **INSTRUCTIONS TO CLERK OF COURT**
3 **SERVICE LIST**

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5 The Clerk of Court is instructed to send the attached
6 document, via the BNC, to the following parties:
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